IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE FIFTEENTH DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE R.SUBHASH REDDY

WRIT PETITION NO : 9802 of 1995

Between:

Smt. Gundluru Subbamma alias Subbalakshmamma,

W/o.Nagaiah, R/o.No.9-31, Tirupati -Chittoor Road, Kothapet,

Chandragiri, Chandragiri Mandal, Chittoor District.

..... PETITIONER

AND

1 The District Collector, Chittor.
2 The Mandal Revenue Officer,
Chandragiri Mandal, Chittoor District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue an order or direction, more in the nature of Writ of Mandamus, declaring the action of the respondents in unauthorisedly interfering with the peaceful possession and enjoyment of the thatched house bearing Door No.9-31, Tirupati-Chittoor Road, Kothapet, Chandragiri, Chandragiri Mandal, Chittoor District belonging to the petitioner as wholly arbitrary, highly illegal, unjust, and unconstitutional being violative of Arts.14 and 21 of the Constitution of India, and contrary to the provisions of Assignment Rules, Board Standing Orders, and also principles of natural justice, without following any procedure as contemplated under the Law, and consequently direct the respondents, not to interfere with the peaceful possession and enjoyment of the petitioner relating to the said house without following any procedure as contemplated under the Law, by holding that the petitioner is entitled for assignment of the said house, since she is a landless and houseless poor person.

Counsel for the Petitioner: MR. D.RAMESH

Counsel for Respondents: GOVERNMENT PLEADER FOR REVENUE

The Court made the following:

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ORDER:

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This writ petition is filed seeking a Writ of Mandamus, to declare the action of the respondents in interfering with the possession of the thatched house bearing Door No.9-31 on Tirupati-Chittoor Road, Kothapet, Chandragiri Mandal, Chittoor District as illegal and arbitrary.

It is the case of the petitioner that she is a landless poor person, occupied a small portion of the land and constructed a thatched house, which was given house bearing Door No.9-31 in Chandragiri on Tirupati-Chittoor road. She made an application before the second respondent for grant of patta. Though such proceedings are pending, respondents are interfering with her possession and enjoyment of the thatched house without issuing any notice and without following the due procedure as contemplated under Law.

In the counter affidavit filed on behalf of the second respondent, it is stated, the petitioner is in encroachment of the land to an extent of Ac.0-01 cent on Puthalpatu-Naidupet highway and she constructed a thatched shed, which is causing hindrance to the free flow of traffic and the area occupied by her is highly objectionable. While denying the allegation that the petitioner is in long standing possession and enjoyment of the thatched house, it is stated that the petitioner has occupied the area recently. Further, it is stated, as the said occupation is an objectionable one, respondents are at liberty to take steps under the provisions of the A.P. Land Encroachment Act, 1905.

As the petitioner's possession is admitted and as much as no proceedings are yet taken by the respondents as contemplated under the provisions of the A.P. Land Encroachment Act, 1905, and in view of the fact that the nature of possession as stated in the counter affidavit is objectionable, which is affecting the free flow of traffic, I dispose of the writ petition with a direction that the petitioner shall not be dispossessed from the land in question as otherwise than in due process of law. In view of the counter affidavit that the area is a recent encroachment, no further relief can be granted to the petitioner.

Subject to the above directions, the writ petition is disposed of. No order as to costs.

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R.SUBHASH REDDY, J

15th February, 2005.

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ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1 The District Collector, Chittor.
2 The Mandal Revenue Officer,
Chandragiri Mandal, Chittoor District.

3 Two CCs to the Government Pleader for Revenue,

High Court Buildings, Hyderabad (O.U.T).

4 Two CD copies.